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UNITED STATES OF AMERICA
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11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 DERRICK PATTERSON,
aka "11in,"
17 aka "11-inches,"
aka "11-inches Hung,"
18

19 Defendant.

No. 2:22-CR-00155-JFW

PROTECTIVE ORDER REGARDING
DISCOVERY CONTAINING PERSONAL
IDENTIFYING INFORMATION, MEDICAL
INFORMATION, AND CONFIDENTIAL
WITNESS INFORMATION

20 The Court has read and considered the parties' Stipulation for
21 a Protective Order Regarding Discovery Containing Personal
22 Identifying Information, Medical Information, and Confidential
23 Witness Information, filed by the government and defendant Derrick
24 Patterson ("defendant") in this matter on April 21, 2022, which this
25 Court incorporates by reference into this order, and FOR GOOD CAUSE
26 SHOWN the Court hereby FINDS AND ORDERS as follows:

27 1. The government's discovery in this case relates to
28 defendant's alleged crimes, that is, violations of 18 U.S.C. §

1 1951(a): Interference with Commerce by Robbery; 18 U.S.C. § 1344(2):
2 Bank Fraud; and 18 U.S.C. § 1028A(a)(1): Aggravated Identity Theft.

3 2. A protective order for the discovery is necessary so that
4 the government can produce to the defense materials regarding
5 confidential informants or cooperating witnesses who may testify at
6 trial. Because these materials could be used to identify the
7 cooperating witnesses, the Court finds that the unauthorized
8 dissemination or distribution of the materials may expose him/her to
9 potential safety risks.

10 3. A protective order for the discovery is also necessary so
11 that the government can produce to the defense materials containing
12 third parties' PII and medical information. The Court finds that
13 disclosure of this information without limitation risks the privacy
14 and security of the information's legitimate owners. The medical
15 information at issue may also be subject to various federal laws
16 protecting the privacy of medical records, including provisions of
17 the Privacy Act, 5 U.S.C. § 552a; provisions of 45 C.F.R.
18 §§ 164.102-164.534; and/or provisions of 42 U.S.C. § 1306. Because
19 the government has an ongoing obligation to protect third parties'
20 PII and medical information, the government cannot produce to
21 defendant an unredacted set of discovery containing this information
22 without this Court entering the Protective Order. Moreover, PII and
23 medical information make up a significant part of the discovery in
24 this case and such information itself, in many instances, has
25 evidentiary value. If the government were to attempt to redact all
26 this information in strict compliance with Federal Rule of Criminal
27 Procedure 49.1, the Central District of California's Local Rules
28 regarding redaction, and the Privacy Policy of the United States

1 Judicial Conference, the defense would receive a set of discovery
2 that would be highly confusing and difficult to understand, and it
3 would be challenging for defense counsel to adequately evaluate the
4 case, provide advice to defendant, or prepare for trial.

5 4. The purpose of this Protective Order is therefore to
6 (a) allow the government to comply with its discovery obligations
7 while protecting this sensitive information from unauthorized
8 dissemination, and (b) provide the defense with sufficient
9 information to adequately represent defendant.

10 5. Accordingly, the discovery that the government will
11 provide to defense counsel in the above-captioned case will be
12 subject to this Protective Order, as follows:

13 a. As used herein, "CW Materials" includes any
14 information relating to a confidential informant's or cooperating
15 witness's prior history of cooperation with law enforcement, prior
16 criminal history, statements, or any other information that could be
17 used to identify a cooperating witness, such as a name, image,
18 address, date of birth, or unique personal identification number,
19 such as a Social Security number, driver's license number, account
20 number, or telephone number.

21 b. As used herein, "PII Materials" includes any
22 information that can be used to identify a person, including a name,
23 address, date of birth, Social Security number, driver's license
24 number, telephone number, account number, email address, or personal
25 identification number.

26 c. "Medical Materials" includes any individually
27 identifiable health information that is connected to a patient's
28

1 name, address, or other identifying number, such as a Social
2 Security number or Medicare/Medi-Cal number.

3 d. "Confidential Information" refers to any document or
4 information containing: CW Materials, PII Materials, or Medical
5 Materials that the government produces to the defense pursuant to
6 this Protective Order and any copies thereof.

7 e. "Defense Team" includes (1) defendant's counsel of
8 record ("defense counsel"); (2) other attorneys at defense counsel's
9 law firm who may be consulted regarding case strategy in this case;
10 (3) defense investigators who are assisting defense counsel with
11 this case; (4) retained experts or potential experts; and
12 (5) paralegals, legal assistants, and other support staff to defense
13 counsel who are providing assistance on this case. The Defense Team
14 does not include defendant, defendant's family members, or any other
15 associates of defendant.

16 f. The government is authorized to provide defense
17 counsel with Confidential Information marked with the following
18 legend: "CONFIDENTIAL INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE
19 ORDER." The government may put that legend on the digital medium
20 (such as DVD or hard drive) or simply label a digital folder on the
21 digital medium to cover the content of that digital folder. The
22 government may also redact any PII contained in the production of
23 Confidential Information.

24 g. If defendant objects to a designation that material
25 contains Confidential Information, the parties shall meet and
26 confer. If the parties cannot reach an agreement regarding
27 defendant's objection, defendant may apply to this Court to have the
28 designation removed.

1 h. Defendant and the Defense Team shall use the
2 Confidential Information solely to prepare for any pretrial motions,
3 plea negotiations, trial, and sentencing hearing in this case, as
4 well as any appellate and post-conviction proceedings.

5 i. The Defense Team shall not permit anyone other than
6 the Defense Team to have possession of Confidential Information,
7 including defendant, while outside the presence of the Defense Team.

8 j. Notwithstanding the above, defendant may see and
9 review CW Materials only in the presence of defense counsel or
10 defense counsel's assigned investigator/paralegal or expert(s), and
11 defense counsel shall ensure that defendant is never left alone with
12 any CW Materials. At the conclusion of any meeting with defendant
13 at which defendant is permitted to view CW Materials, defendant must
14 return any CW Materials to defense counsel or defense counsel's
15 assigned investigator/paralegal or expert(s), who shall take all
16 such materials with him/her. Defendant may not take any CW
17 Materials out of the room in which defendant is meeting with defense
18 counsel or defense counsel's assigned investigator/paralegal or
19 expert(s). At no time, under no circumstance, will any Confidential
20 Information be left in the possession, custody, or control of
21 defendant, regardless of defendant's custody status.

22 k. Defendant may review PII Materials and Medical
23 Materials only in the presence of a member of the Defense Team, who
24 shall ensure that defendant is never left alone with any PII
25 Materials or Medical Materials. At the conclusion of any meeting
26 with defendant at which defendant is permitted to view PII Materials
27 or Medical Materials, defendant must return any PII Materials or
28 Medical Materials to the Defense Team, and the member of the Defense

1 Team present shall take all such materials with him or her.

2 Defendant may not take any PII Materials or Medical Materials out of
3 the room in which defendant is meeting with the Defense Team.

4 1. Defendant may see and review Confidential Information
5 as permitted by this Protective Order, but defendant may not copy,
6 keep, maintain, or otherwise possess any Confidential Information in
7 this case at any time. Defendant also may not write down or
8 memorialize any data or information contained in the Confidential
9 Information.

10 m. The Defense Team may review Confidential Information
11 with a witness or potential witness in this case, including
12 defendant. Defense counsel must be present whenever any CW
13 Materials are being shown to a witness or potential witness. A
14 member of the Defense Team must be present if PII Materials or
15 Medical Materials are being shown to a witness or potential witness.
16 Before being shown any portion of Confidential Information, however,
17 any witness or potential witness must be informed of, and agree in
18 writing to be bound by, the requirements of the Protective Order.
19 No member of the Defense Team shall permit a witness or potential
20 witness to retain Confidential Information or any notes generated
21 from Confidential Information.

22 n. The Defense Team shall maintain Confidential
23 Information safely and securely, and shall exercise reasonable care
24 in ensuring the confidentiality of those materials by (1) not
25 permitting anyone other than members of the Defense Team, defendant,
26 witnesses, and potential witnesses, as restricted above, to see
27 Confidential Information; (2) not divulging to anyone other than
28 members of the Defense Team, defendant, witnesses, and potential

1 witnesses, the contents of Confidential Information; and (3) not
2 permitting Confidential Information to be outside the Defense Team's
3 offices, homes, vehicles, or personal presence. CW Materials shall
4 not be left unattended in any vehicle.

5 o. To the extent that defendant, the Defense Team,
6 witnesses, or potential witnesses create notes that contain, in
7 whole or in part, Confidential Information, or to the extent that
8 copies are made for authorized use by members of the Defense Team,
9 such notes, copies, or reproductions become Confidential Information
10 subject to the Protective Order and must be handled in accordance
11 with the terms of the Protective Order.

12 p. The Defense Team shall use Confidential Information
13 only for the litigation of this matter and for no other purpose.
14 Litigation of this matter includes any appeal filed by defendant and
15 any motion filed by defendant pursuant to 28 U.S.C. § 2255. In the
16 event that a party needs to file Confidential Information with the
17 Court or divulge the contents of Confidential Information in court
18 filings, the filing should be made under seal. If the Court rejects
19 the request to file such information under seal, the party seeking
20 to file such information publicly shall provide advance written
21 notice to the other party to afford such party an opportunity to
22 object or otherwise respond to such intention. If the other party
23 does not object to the proposed filing, the party seeking to file
24 such information shall redact any CW Materials, PII Materials, or
25 Medical Materials and make all reasonable attempts to limit the
26 divulging of CW Materials, PII Materials, or Medical Materials.

27 q. Any Confidential Information produced in the course
28 of discovery prior to entry of the Protective Order shall be subject

1 to the terms of this Protective Order. If Confidential Information
2 was produced prior to entry of the Protective Order without being
3 marked "CONFIDENTIAL INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE
4 ORDER," the government shall reproduce the material with the correct
5 designation and notify defense counsel of the error. The Defense
6 Team shall take immediate steps to destroy the unmarked material,
7 including any copies.

8 r. If any Confidential Information contains both CW
9 Materials and another category of Confidential Information, the
10 information shall be handled in accordance with the CW Materials
11 provisions of this Protective Order.

12 s. Confidential Information shall not be used by any
13 member of the defense team, in any way, in any other matter, absent
14 an order by this Court. All materials designated subject to the
15 Protective Order maintained in the Defense Team's files shall remain
16 subject to the Protective Order unless and until such order is
17 modified by this Court. Within 30 days of the conclusion of
18 appellate and post-conviction proceedings, defense counsel shall
19 return CW Materials, PII Materials, and Medical Materials to the
20 government, certify that such materials have been destroyed, or
21 certify that such materials are being kept pursuant to the
22 California Business and Professions Code and the California Rules of
23 Professional Conduct.

24 t. In the event that there is a substitution of counsel
25 prior to when such documents must be returned, new defense counsel
26 must be informed of, and agree in writing to be bound by, the
27 requirements of the Protective Order before defense counsel
28 transfers any Confidential Information to the new defense counsel.

1 New defense counsel's written agreement to be bound by the terms of
2 the Protective Order must be returned to the Assistant U.S. Attorney
3 assigned to the case. New defense counsel then will become the
4 Defense Team's custodian of materials designated subject to the
5 Protective Order and shall then become responsible, upon the
6 conclusion of appellate and post-conviction proceedings, for
7 (1) returning to the government, certifying the destruction of, or
8 retaining pursuant to the California Business and Professions Code
9 and the California Rules of Professional Conduct all CW Materials,
10 PII Materials, or Medical Materials.

11 u. Defense counsel shall advise defendant and all
12 members of the Defense Team of their obligations under the
13 Protective Order and ensure their agreement to follow the Protective
14 Order, prior to providing defendant and members of the Defense Team
15 with access to any materials subject to the Protective Order.

16 IT IS SO ORDERED.

17 April 22, 2022

18 DATE

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HONORABLE JOHN F. WALTER
UNITED STATES DISTRICT JUDGE

20 Presented by:

21 /s/ Jeremiah Levine

22 JEREMIAH LEVINE

23 Assistant United States Attorney
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